REMARKS

Summary of the Office Action and this Amendment

In paragraph 3 of the office action, the examiner states:

> Claim 21 is rejected under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 21 reads as if there are two cooking devices which does not seem appropriate with respect to claim 1, where only one device is set forth.

In paragraph 5 of the office action, the examiner states:

> Claims 1, 10, 13, 16-28, 40, 44, and 46-59 are rejected under 35 U.S.C. 102(b) as being anticipated by Stewart et al. (US 6,237,823 B1).

In paragraph 6 of the office action, the examiner states:

> Claims 1, 3, 10-12, 22-28, 43-48, 50, 53, 58, and 59 are rejected under 35 U.S.C. 102(b) as being anticipated by Workentine (US 4,856,686 A).

In paragraph 7 of the office action, the examiner states:

> Claims 1, 3, 11-13, 16, 22-29, 42, 48-50, 57-59 are rejected under 35 U.S.C. 102(b) as being anticipated by Frommer (US 6,250,483 B1).

In paragraph 9 of the office action, the examiner states:

> Claims 1-5, 7-9, 11, 12, 29, 32, 33, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Workentine in view of Frommer.

In paragraph 10 of the office action, the examiner states:

> Claims 6 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Workentine in view of Frommer as applied above, further in view of Edgerly (US 6,390,344 B1).

In paragraph 11 of the office action, the examiner states:

> Claims 14, 15, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart et al. as applied above in view of Lewis, Sr. et al. (US 6,024,263 A), and further in view of Tobias (US 2,833,608 A).

In paragraph 12 of the office action, the examiner states:

> Claims 29 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart et al. as applied above in view of Workentine, and further in view of Frommer.

In paragraph 13 of the office action, the examiner states:

> Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart et al. in view of Workentine and Frommer as applied above, further in view of Lewis, Sr. et al. and Tobias.

In paragraph 14 of the office action, the examiner states:

> Claims 33 and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart et al. as applied above in view of Powell (US 6,129,371 A).

In paragraph 15 of the office action, the examiner states:

> Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart et al. in view of Powell as applied above, further in view of Lewis, Sr. et al. and Tobias.

In paragraph 17 of the office action, the examiner states:

> Claims 40, 42, 43, 48-52, 54, and 56-59 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-28 of U. S. Patent No. 6,701,913. Although the conflicting claims are not identical, they are not patentably distinct from each other because the patented claims include at least all of the structure set forth in the above mentioned claims of the present application, just in different wording and arrangement.

In paragraph 18 of the office action, the examiner states:

> Claims 1-3, 7, 8, 10-12, 16-29, 32, 33, 35, 36, 44-46, and 53 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-28 of U. S. Patent No. 6,701,913 in view of Workentine….

In paragraph 19 of the office action, the examiner states:

> Claims 13 and 47 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-28 of U. S. Patent No. 6,701,913 in view of Workentine, and further in view of Lewis, Sr. et al….

In paragraph 20 of the office action, the examiner states:

> Claims 14, 15, 31, and 34 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-28 of U. S. Patent No. 6,701,913 in view of Workentine, and further in view of Lewis, Sr. et al. and Tobias….

In paragraph 21 of the office action, the examiner states:

> Claim 30 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-28 of U. S. Patent No. 6,701,913 in view of Workentine and Edgerly….

In paragraph 22 of the office action, the examiner states:

> Claims 37-39 and 55 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-28 of U. S. Patent No. 6,701,913 in view of Lewis, Sr. et al….

In paragraph 23 of the office action, the examiner states:

> Claim 41 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-28 of U. S. Patent No. 6,701,913 in view of Lewis, Sr. et al. and Tobias….

Summary of this Amendment

In this Amendment, the applicant has amended claims 1, 3, 4, 8, 9, 11, 21, 29, 33, 35, 36, 37, 40, 42-48, 51, 53, 54, 57, and 58. Support for the amendments can be found, for example, in Figs. 3, and 16-23, and in paragraphs 39-41 and 78-89 of the specification. No new matter has been added. Claims 1-59 are now pending in the application.

Claim Rejections – Nonstatutory Double Patenting

As mentioned above, in the office action, numerous claims were rejected on the ground of nonstatutory obviousness-type double patenting. A terminal disclaimer is included with this amendment, to overcome the nonstatutory double patenting claim rejections.

Claim Rejections - 35 U.S.C. 112

As mentioned above, in paragraph 3 of the office action, the examiner states:

> Claim 21 is rejected under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 21 reads as if there are two cooking devices which does not seem appropriate with respect to claim 1, where only one device is set forth.

In this amendment claim 21 has been amended, such that the wording that resulted in the rejection under 35 U.S.C. 112 has been removed, thereby eliminating the basis for the 35 U.S.C. 112 claim rejection.

Claim Rejections - 35 U.S.C. 102 and 35 U.S.C. 103

a. Legal Criteria 35 U.S.C. 102

> A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). . . . "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

MPEP § 2131 (8th ed., rev. 5, Aug. 2006).

b. Legal Criteria 35 U.S.C. 103

> "Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented."

Graham v. John Deere Co. of Kansas City, 383 U. S. 1, 17-18 (1966).

c. Discussion Regarding the 35 U.S.C. 102 and 103 Rejections

As mentioned above, in the office action, there are numerous claim rejections under 35 U.S.C. 102 and 35 U.S.C. 103. The currently pending independent claims are claims 1, 29, 33, 37, 40, 42, 43, 48, 51, 53, 54, 57, and 58, as presented herein. The applicant submits that all of the independent claims as amended herein include limitations that are not described in the references.

Independent claims 1, 29, 33, 37, 40, 42, 43, 48, 51, 53:

The applicant submits that each of independent claims 1, 29, 33, 37, 40, 42, 43, 48, 51, and 53 as presented herein includes at least the following limitations that are not disclosed in the references:

> a collar insertion member inserted into the hitch collar, wherein the collar insertion member is attached to the hitch collar, and wherein the collar insertion member is encircled by the hitch collar and is encircled by the support arm; and
>
> wherein the support arm has a first end and a second end, and wherein the hitch collar hole is located proximate the first end of the support arm at a location along the longitudinal axis of the support arm that does not overlap the primary swing arm when the primary swing arm is oriented with the longitudinal axis of the primary swing arm substantially parallel to the longitudinal axis of the support arm, to provide space between the collar insertion member and the primary swing arm when the primary swing arm is oriented with the longitudinal axis of the primary swing arm substantially parallel to the longitudinal axis of the support arm.

U.S. Patent No. 4,856,686 (Workentine), cited by the examiner, shows in Fig. 1, a collar 10 mounted over a blank receiver insert 20, as described in col. 2, lines

55-63. However, the applicant submits that neither Workentine, nor any of the other references, disclose the claim limitations:

> a collar insertion member inserted into the hitch collar, wherein the collar insertion member is attached to the hitch collar, and wherein the collar insertion member is encircled by the hitch collar and is encircled by the support arm.

Specifically, none of the references disclose the limitations: "wherein the collar insertion member is encircled by the hitch collar and is encircled by the support arm".

Further, at col. 2, lines 55-63, Workentine discloses that a lower end 6 of an upright support 4 is welded to an upper surface 16 of the collar 10. Thus, Workentine teaches that the upright support 4 is welded to the upper surface 16 of the collar 10, with the upright support 4 oriented vertically with the lower end 6 resting on the collar 10. The applicant submits that this disclosure of Workentine, wherein the upright support 4 is upright and is welded to an upper surface 16 of the collar 10, would not be suitable for, and teaches away from, the configuration of the support arm and collar insertion member, as claimed.

The applicant also submits that none of the other claim limitations quoted above are disclosed in the references.

Independent claims 54, 57, 58:

The applicant submits that independent claim 54 as presented herein includes at least the following limitations that are not disclosed in the references:

> a primary swing arm defining a primary swing arm longitudinal axis, wherein the primary swing arm has a swinging end;
>
> a hinge bar shaped and configured to rotatably couple the primary swing arm to the support arm with the swinging end of the primary swing arm rotatable substantially

horizontally away from the vehicle when the apparatus is attached to the vehicle; and

the cooking device, wherein the cooking device is coupled to the primary swing arm.

The applicant submits that independent claims 57 and 58 as presented herein include at least the following limitations that are not disclosed in the references:

a primary swing arm defining a primary swing arm longitudinal axis, wherein the primary swing arm has a swinging end;

a primary hinge assembly coupled to the support arm and the primary swing arm with the swinging end of the primary swing arm rotatable substantially horizontally away from the vehicle when the apparatus is attached to the vehicle; and

the cooking device, wherein the cooking device is coupled to the primary swing arm.

The applicant submits that the references do not disclose the claimed limitations recited above for claims 54, 57, and 58. For example, U.S. Patent No. 6,250,483 to Frommer, does not disclose rotation of the swing arm as claimed: "with the swinging end of the primary swing arm rotatable substantially horizontally away from the vehicle when the apparatus is attached to the vehicle". Also, neither Frommer, nor U.S. Patent No. 6,237,823 to Stewart, nor any of the references disclose the claimed limitations in combination with a cooking device. In summary, the applicant submits that none of the references discloses all of the claim limitations, and that each of the claims, as a whole, is nonobvious in view of the references.

Further, the applicant respectfully disagrees with numerous other arguments presented by the examiner in the 35 U.S.C. 102 and 103 rejections, and may argue those points in the future.

Conclusion regarding the 35 U.S.C. 102 and 103 Rejections

The applicant submits that the independent claims as presented herein are novel and nonobvious in view of the references, because each and every element as set forth in the claims is not found, either expressly or inherently described in the references, and because the claimed invention, as a whole, would not have been obvious. Consequently, the applicant submits that the rejections of the independent claims should be withdrawn.

Dependent claims and amendments in general

The applicant submits that all of the dependent claims are novel and nonobvious for at least the reasons discussed above with regard to the independent claims. Additionally, the applicant submits that the dependent claims include additional limitations that are not taught or suggested by the references.

Some of the claim amendments in this amendment were made to clarify the wording and to correct typographical errors.

Conclusion

The applicant submits that the claims as presented herein, particularly point out and distinctly claim the invention, and are novel and nonobvious. Further, a terminal disclaimer has been included with this amendment, to overcome the nonstatutory obviousness-type double patenting claim rejections. In conclusion, the applicant respectfully submits that the application is in condition for allowance, and applicant requests reconsideration and further examination, and allowance of the application.

Respectfully submitted,

/Tim Ellis/

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